REMARKS

The Examiner has refused to consider the merits of the information referred to in the information disclosure statement filed 2/15/05 for failing to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP 609 because the references are not listed on a 1449 form. To comply with such provisions, applicant has submitted a new information disclosure statement listed on a 1449 form, on April 13, 2005.

The Examiner has rejected Claims 1-2, 4-7, 9-13, 17-18, 20-23, 25-29, 33-35, 38-40, 42 and 44 under 35 U.S.C. 102(c) as being anticipated by Grupe (U.S. Patent Application Publication No. 2002/0194212). Applicant respectfully disagrees with such rejection for the reasons argued below.

Moreover, such rejection is moot since applicant's invention was completed in the United States at a date prior to June 13, 2001, the effective date of the United States Patent Application 2002/0194212 that was cited by the Examiner. A declaration and exhibit evidencing such are submitted herewith.

In particular, declarations signed by inventors are submitted herewith establishing completion of the invention in this application in the United States or a NAFTA or WTO member country at a date prior to June 13, 2001. Evidencing such completion is a confidential disclosure document generated before the filing of the present patent application showing the conception of an anti-virus scanning co-processor at least as early as June 4, 2001.

Furthermore, statements by inventors are provided which state that, at a date prior to June 13, 2001, the invention in the above patent application was conceived to include the operations of executing scanning control logic utilizing a central processing unit; identifying a request related to data at the central processing unit; indicating the data to a scanning co-processor coupled to the central processing unit so that the data is scanned by the scanning co-processor under the control of the scanning control logic; waiting for

results from the scanning co-processor; executing additional logic utilizing the central processing unit while waiting for the results from the scanning co-processor; and initiating an event based on the results from the scanning co-processor; wherein the scanning co-processor is under the control of the central processing unit via the execution of the scanning control logic by the central processing unit; wherein it is determined whether the data meets a predetermined criteria, where the criteria is based on a type of a file associated with the data; wherein the data is sent to the scanning co-processor if it is determined that the data meets the predetermined criteria; wherein additional data to be scanned by the scanning co-processor is queued while waiting for the results from the scanning co-processor, as well as other claimed features.

In view of such declaration and supporting evidence, the foregoing rejection is deemed to have been overcome. An allowance is respectfully requested. In addition to such declaration and supporting evidence of prior invention, applicant respectfully asserts that the Grupe reference does not teach all of applicant's claim language.

With respect to independent Claims 1, 17 and 33 the Examiner has relied on the following excerpts to make a prior art showing of applicant's claimed "executing additional logic utilizing the central processing unit while waiting for the results from the scanning co-processor."

> "Viewed from one aspect the present invention provides a computer program product comprising a computer program operable to control a scanning computer to produce a log file identifying computer data from a source computer having specified content, said computer program comprising: scanning logic operable to scan computer data transferred from said source computer to said scanning computer and to identify one or more portions of said computer data having one or more predetermined characteristics indicative of said computer data having said specified content; and log generating logic operable to write details of said identified portions to a log file." [0008]
>
> "The invention recognises the above problem of scans of computer data that take so long that a complete scan of the data cannot be performed during slack time, such as overnight or during the weekend. To address this problem embodiments of the invention transfer data to be scanned from a source computer to a scanning computer. The scanning computer then scans the data and creates a log file identifying portions of the data that have predetermined characteristics indicating a particular specified content. This enables the source computer to rescan or otherwise selectively

> process the data identified in the log file, which considerably reduces the processing time of the source computer needed for a scan." [0009] (emphasis added)

Applicant respectfully asserts that the above excerpts simply disclose a "scanning computer [that] scans the data and creates a log file" and a source computer that subsequently "rescan[s] or otherwise selectively process[es] the data identified in the log file." Thus, the source computer cannot take any action until it receives the log file from the scanning computer, which is clearly distinguished from applicant's claimed "executing additional logic utilizing the central processing unit **while waiting** for the results from the scanning co-processor" (emphasis added).

In addition, the Examiner has relied on the above excerpts to meet applicant's claimed "wherein the scanning co-processor is under the control of the central processing unit via the execution of the scanning control logic by the central processing unit." Grupe, however, teaches a "computer program product comprising a computer program operable to control a scanning computer," and the Examiner has also admitted that "[t]he scanning control logic is maintained in the scanning co-processor computer(s)." Both the prior art and the Examiner's statements clearly *teach away* from applicant's claim language since applicant claims "execution of the scanning control logic by the central processing unit" and NOT by the scanning co-processor (emphasis added).

Furthermore, the Examiner has relied on paragraph [0009] as cited above to make a prior art showing of applicant's claimed "wherein additional data to be scanned by the scanning co-processor is queued while waiting for the results from the scanning co-processor." In doing so, the Examiner has stated that "[i]t is inherent that the data is not all processed at the same exact time but is rather processed in a queue on the scanning computer where additional data to be scanned is processed after the results of the first data are processed." Applicant respectfully disagrees with the Examiners assertion. Specifically, applicant's claimed "wherein additional data to be scanned by the scanning co-processor is queued" is not inherent in the context of applicant's remaining claim language.

With respect to independent Claims 34 and 35, applicant respectfully asserts that such claims are deemed allowable for, at least in part, the reasons set forth hereinabove with respect to the aforementioned independent claims. In addition, the Examiner has relied on the following excerpt to make a prior art showing of applicant's claimed "processing the data utilizing the central processing until upon the receipt of favorable results from the scanning co-processor including a situation where malicious code is not detected."

> "A further aspect of the present invention provides a computer program product comprising a computer program operable to control a source computer to scan computer data stored by said source computer to identify one or more portions of said computer data having one or more predetermined characteristics indicative of said computer data having some specified content, said computer program comprising: log reading logic operable to control said source computer to read a log file written by a scanning computer, said log file identifying portions of said computer data having said predetermined characteristics; **and response logic responsive to said log file and operable to control said source computer to perform further processing tasks upon at least said data identified in said log file as having said predetermined characteristics.**" [0015] (emphasis added)

Applicant respectfully asserts that the above excerpt simply discloses "response logic responsive to said log file and operable to control said source computer to perform further processing tasks upon at least said data identified in said log file as having said predetermined characteristics" wherein the "predetermined characteristics [are] indicative of said computer data having some specified content." Furthermore, Grupe discloses "any content of data that the user cares to specify may be scanned for...particularly...a computer virus; a worm; a Trojan; and a computer file comprising banned content" (see paragraph [0011]).

Thus, Grupe's "log file" includes data with specified content that is unwanted (e.g. viruses, worm, etc.), such that the source computer performs further processing tasks upon the data in the log file. Therefore, it seems that Grupe discloses further processing of data that is NOT favorable. Applicant, on the other hand, claims "processing the data

utilizing the central processing unit upon receipt of favorable results from the scanning co-processor including a situation where malicious code is not detected."

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.*868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Grupe reference, especially in view of the arguments made hereinabove. A notice of allowance or a specific prior art showing of each of the foregoing claimed features, in combination with the remaining claimed features, is respectfully requested.

The Examiner's rejections are also deficient with respect to the dependent claims. Just by way of example, the Examiner rejects dependent Claim 12 et al. by stating that "[i]t is inherent that the virus signatures are stored in order for the scanning co-processor to detect that a virus is present." Applicant respectfully asserts that virus signatures are not inherent in virus scanning.

Further, the Examiner has rejected dependent Claim 38 as being met by Grupe's disclosed "embodiments of the above invention can be used to detect any content of a file that the user specifies" (see paragraph [0036]). Applicant respectfully asserts that "wherein the criteria is further based on a user" (Claim 38) is simply not taught by "detect[ing] any content" as taught in Grupe. Detecting content of a file does not encompass a user, since a user is not considered content in a file.

Again, a notice of allowance or a specific prior art showing of each of the foregoing limitations, in combination with the remaining claim elements, is respectfully requested.

All of the independent claims are deemed allowable for the reasons set forth hereinabove. By virtue of their dependence on such claims, the dependent claims are further deemed allowable. Reconsideration is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. Applicants are enclosing a check to pay for the added claims. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P014).

Respectfully submitted,
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